

# EXHIBIT A

**From:** Michelle Ybarra  
**To:** Davida Brook; Alex Frawley; jsaveri; Spencer McManus; [nvt-ai-sq-service@simplelists.susmangodfrey.com](mailto:nvt-ai-sq-service@simplelists.susmangodfrey.com); DailyNews-AI-RFEM; AI Mail Group; Alter-TT (Alter-AI-TT@simplelists.susmangodfrey.com); Dozier, Wesley; Stoler, Reilly T.; Freymann, Anna J.; Geman, Rachel; JSLF ChatGPT Service List; ChatGPT Co-Counsel; mb; bclobes; asweatman; mrathur; kmotta; alee; mrichter@ghsklaw.com; ltfisher@burisor.com; jmarchese@burisor.com; iglatt@burisor.com; jdiamond@burisor.com; kramer@beneschlaw.com; ntorrice@beneschlaw.com  
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**Subject:** RE: In re OpenAI Copyright Infringement Litigation, No. 25-md-3143 - Initial CMC & Pre-Conference Report  
**Date:** Tuesday, May 6, 2025 4:15:39 PM

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Davida,

Thank you for your email. We understand that Plaintiffs intend to oppose OpenAI's request for a brief continuance of the May 22 conference, notwithstanding that OpenAI's lead trial counsel, Bob Van Nest, will be traveling internationally that day and cannot attend. We will so inform the Court. However, a couple of statements you make below bear correcting:

1. OpenAI has not refused to make its witnesses available for deposition, nor has OpenAI advised counsel representing former OpenAI employees to do the same. OpenAI's position has always been that witnesses should sit for one, coordinated deposition, rather than be subject to multiple duplicative depositions by Plaintiffs. OpenAI initiated meet and confers over a deposition coordination protocol that would accomplish this nearly a year ago, and Plaintiffs have repeatedly stymied those efforts with unreasonable demands and shifting positions. Those persist today; since the JPML's April 3 order alone, various Plaintiffs groups have issued dozens of subpoenas to former OpenAI employees – including 19 separate subpoenas for deposition. None of those appear to have been properly coordinated among Plaintiffs; indeed, some former OpenAI employees have been the target of as many as 6 different deposition subpoenas. While we will not agree to proceed with multiple, duplicative depositions of the same witnesses, OpenAI remains willing to reengage in meet and confer over deposition coordination, and we are hopeful that the parties can work together to present a sensible protocol to the Court.
  
2. Your comments about Mr. Van Nest are not well taken. Mr. Van Nest was in back-to-back jury trials last fall, the first of which began on September 9 and lasted 4 weeks, and the second of which began on October 15 and concluded on October 29, 2024. Those trial conflicts made it impossible for Mr. Van Nest to attend the September 12 and October 30 status conferences. You are correct that Mr. Van Nest appeared at the very next status conference before Judge Wang on December 3, but your characterization of his role is inaccurate. Regardless, Mr. Van Nest is lead trial counsel for OpenAI, and your suggestion that he has a limited role in these litigations is misinformed. Certainly we would not suggest the same of you, notwithstanding your non-appearance at the last

3 hearings in the News Cases.

Accordingly, we will file our request for a brief continuance of the May 22 CMC and note Plaintiffs' opposition.

Michelle Ybarra  
Keker Van Nest & Peters

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**From:** Davida Brook <DBrook@susmangodfrey.com>  
**Sent:** Monday, May 5, 2025 2:40 PM  
**To:** Alex Frawley <AFrawley@susmangodfrey.com>; jsaveri <jsaveri@saverilawfirm.com>; Spencer McManus <SMcManus@keker.com>; nyt-ai-sg-service@simplelists.susmangodfrey.com; DailyNews-AI-RFEM <dailynews-ai-rfem@rothwellfigg.com>; AI Mail Group <ai@loevy.com>; Alter-TT (Alter-AI-TT@simplelists.susmangodfrey.com) <alter-ai-tt@simplelists.susmangodfrey.com>; Dozier, Wesley <wdozier@lchb.com>; Stoler, Reilly T. <rstoler@lchb.com>; Freymann, Anna J. <afreymann@lchb.com>; Geman, Rachel <rgeman@lchb.com>; JSLF ChatGPT Service List <JSLFSERVICE\_CHATGPT@saverilawfirm.com>; ChatGPT Co-Counsel <chatgpt\_cocounsel@bsfllp.com>; mb <mb@buttericklaw.com>; bclobes <bclobes@caffertyclobes.com>; asweatman <asweatman@caffertyclobes.com>; mrathur <mrathur@caffertyclobes.com>; kmotta <kmotta@caffertyclobes.com>; alee <alee@caffertyclobes.com>; mrichter@ghsklaw.com; ltfisher@bursor.com; jmarchese@bursor.com; jglatt@bursor.com; jdiamond@bursor.com; kcramer@beneschlaw.com; ntorrice@beneschlaw.com  
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**[EXTERNAL]**

Counsel,

We understand that Mr. Van Nest has a conflict on May 22. We note that Mr. Van Nest did not appear at the motion to dismiss hearing before Judge Stein and has appeared at only one of the conferences before Magistrate Judge Wang, and his participation at that conference was limited to advising the Court that OpenAI intended to file a petition with the JPML. We also understand that Mr. Van Nest has not appeared at any of the hearings in the *In re OpenAI* matter transferred from N.D. Cal.

Nevertheless, as a matter of professional courtesy, we have queried lead counsel

for the various plaintiffs. There are no dates within several weeks after May 22 that work for all of plaintiffs' lead counsel. Moreover, certain Plaintiffs' counsel have rearranged schedules to accommodate May 22. Plaintiffs therefore collectively oppose any adjournment of the May 22 conference. This is particularly so because since the issuance of the JPML order, OpenAI has refused to make its witnesses available for deposition pending a coordination order from Judge Stein and has also apparently advised counsel representing former OpenAI employees to do the same. That said, Plaintiffs have no objection to Mr. Van Nest appearing at the conference by Zoom. Plaintiffs likewise have no objection to one of the other 32 attorneys who have appeared in this case on behalf of OpenAI representing OpenAI's positions at the upcoming hearing even if Mr. Van Nest is to be lead.

If you ask the Court for an adjournment, we request that you provide a copy of this response as well.

Thank you,  
David

**From:** Alex Frawley (via NYT-AI-SG-Service list) <[NYT-AI-SG-Service@simplelists.susmangodfrey.com](mailto:NYT-AI-SG-Service@simplelists.susmangodfrey.com)>

**Date:** Monday, May 5, 2025 at 2:31 PM

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**Subject:** RE: In re OpenAI Copyright Infringement Litigation, No. 25-md-3143 - Initial CMC & Pre-Conference Report

**EXTERNAL Email**

Hi Spencer,

The Times will further respond to your email today, and we ask that OpenAI not file anything about this issue until we respond.

Best,  
Alex

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**From:** Joseph Saveri (via NYT-AI-SG-Service list) <[NYT-AI-SG-Service@simplelists.susmangodfrey.com](mailto:NYT-AI-SG-Service@simplelists.susmangodfrey.com)>  
**Sent:** Monday, May 5, 2025 1:57 PM  
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**EXTERNAL Email**

Counsel,

My schedule can't accommodate the dates you suggest. I made plans to comply with the court's date and moved depositions and other obligations. I would like to go forward on the date set by the court.

**Joseph R. Saveri**

*CEO & Founder*



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**From:** Spencer McManus <[SMcManus@keker.com](mailto:SMcManus@keker.com)>  
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**Subject:** In re OpenAI Copyright Infringement Litigation, No. 25-md-3143 - Initial CMC & Pre-  
Conference Report

Counsel:

I write on behalf of the OpenAI defendants in the multi-district litigation pending before Judge Stein.

In Case Management Order No. 1, Judge Stein set an initial case management conference for May 22, 2025. Due to a preexisting scheduling commitment, OpenAI's counsel is not available on that day. Counsel for OpenAI is available at any time the Court finds convenient the following two weeks (May 27–June 6, 2025). We understand that Microsoft's counsel is also available those following two weeks. Please advise if Plaintiffs' counsel can participate in a conference sometime between May 27–June 6, 2025.

Judge Stein's Case Management Order No. 1 calls for submission of a Pre-Conference report on May 16. To ensure orderly coordination and timely submission of the report, Defendants will prepare the first draft of Sections B–H of the Report and request Plaintiffs prepare the first draft of Section A. Defendants propose a simultaneous exchange of these first drafts at 5pm PST on May 9, 2025. The parties can then exchange revisions or, if needed, meet and confer the following week before submitting a final report to the Court on May 16. Please confirm this schedule works for Plaintiffs. Microsoft assents to this schedule.

Best,  
Spencer

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**Spencer McManus**  
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